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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.             | CONFIRMATION NO.            |
|---|-------------|----------------------|---------------------------------|-----------------------------|
| 10/766,721  | 01/27/2004  | Daniel Matern        | 056982/00040                    | 3454                        |
| 31013 7590 12/03/2007<br>KRAMER LEVIN NAFTALIS & FRANKEL LLP<br>INTELLECTUAL PROPERTY DEPARTMENT<br>1177 AVENUE OF THE AMERICAS<br>NEW YORK, NY 10036 |             |                      | EXAMINER<br>FLEMING, FAYE M     |                             |
|   |             |                      | ART UNIT<br>3616                | PAPER NUMBER                |
|   |             |                      | NOTIFICATION DATE<br>12/03/2007 | DELIVERY MODE<br>ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

klpatent@kramerlevin.com

## Office Action Summary

**Application No.**

10/766,721

**Applicant(s)**

MATERN ET AL.

**Examiner**

Faye M. Fleming

**Art Unit**

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8, 10-14, 19-22 and 24-28 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 15-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Allowable Subject Matter***

1. The indicated allowability of claim 18 is withdrawn in view of the newly discovered reference(s) to U.S. Patent 4,714,271 to Buma, et al. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Buma, et al. (4,714,271). Buma disclose an air-suspension system for a vehicle comprising a compressed-air delivery device 10b, a plurality of air-suspension bellows S1L, S2L, S1R, S2R, valves V1L, V2L, V1R, V2R constructed and arranged for controlling the filling of at least one of the air-suspension bellows with compressed air from the compressed-air delivery device 10b, the arrangement of the valves defining a plurality of states, and means for automatically controlling the effective delivery capacity of the compressed-air delivery device as a function of a state of the plurality of states defined by the arrangement of the valves. Buma teaches a speed sensor SE1 wherein the speed and rpm is controlled. Buma teaches a vent port 10f wherein air is vented to the atmosphere.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Huster (DE10203075). Huster discloses an air-suspension system for a vehicle comprising a compressed-air delivery device 28, a plurality of air-suspension bellows 5-8, valves 15-18 constructed and arranged for controlling the filling of at least one of the air-suspension bellows with compressed air from the compressed-air delivery device 28, the arrangement of the valves defining a plurality of states, and means for automatically controlling the effective delivery capacity of the compressed-air delivery device as a function of a state of the plurality of states defined by the arrangement of the valves.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huster (DE10203075) in view of Roemer, et al. (DE10055108). Huster discloses the claimed invention except for controlling at least one of speed and rpm of the compress-air delivery device. Roemer discloses an air-suspension system comprising a pump 20. Based on the teachings of Roemer, it would have been obvious

to one having ordinary skill in the art at the time the invention was made to modify the system of Huster to include a pump to improve the flow of the air of the suspension system.

***Allowable Subject Matter***

7. Claims 5-8, 10-14, 19-22 and 24-28 are allowed.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-4 and 15-18 been considered but are moot in view of the new ground(s) of rejection.

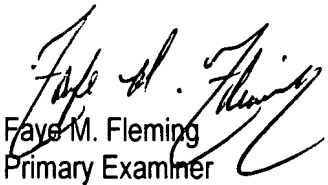
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye M. Fleming whose telephone number is (571) 272-6672. The examiner can normally be reached on M-F (9:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Faye M. Fleming  
Primary Examiner  
Art Unit 3616  
11/24/07